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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,625	09/07/1999	BROCK WALKER	PM-223529	7261

42624 7590 02/23/2007  
DAVIDSON BERQUIST JACKSON & GOWDEY LLP  
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ARLINGTON, VA 22203

EXAMINER
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BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
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3772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/390,625

Applicant(s)

WALKER, BROCK

Examiner

Michael Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-21 and 23-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 10-13, 27, 32, 33, 38 and 46-59 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 15, 16, 19-21, 23-26, 28, 29, 34, 35, 37 and 39-45 is/are rejected.
- 7) ☒ Claim(s) 8-9, 17-18, 30-31, 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-7, 15-16, 19-21, 23-26, 28, 34, 37, 39-40 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Perkins.

Perkins discloses in figures 1-5 a portable sacral support comprising a main body 10, having a plurality of central portions 15, having a first compression valve (greater density, col. 2, lines 24-25), lesser compression areas 26, (col. 2, lines 23-25) adjacent the central portion, the main body is made of a molded material (plastic), the main body is an integral one piece structure, the compressive support of the central portion is variable (the plastic supports are made of different density, col. 2, lines 20), a spacer member, (the two vertical extending portions of 20), end portions (the top and bottom of the body each including a thicken portion), the compressive support (the device is resilient) of the central portion is variable (it can be made of various densities of foam), the end portion includes at least one thicken portion (fig. 3), the end portion extend beyond the central portion (the central portion is interpreted as being 15, the ends (fig. 3), are located extends beyond the portions 15), the open cell foam (col. 2, lines 20-24), provides dimples spaced across a portion of the front surface. The open cells provide through holes that extend through a portion of the main and the central portion further includes a rearwardly protruding lower portion (fig. 3). The bottom having a rear portion that is angled

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(fig. 3), with respect to the front portion, the main body includes a curved surface (fig. 3), the material is a durable foam (polyurethane) foam and a self-skinning foam 30.

***Claim Rejections - 35 USC § 103***

Claims 29, 33 35, 41-43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins.

Perkins discloses in figures 1-5 a portable sacral support, substantially as claimed. However, Perkins doesn't disclose what force the support provides. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the central portion and the support could be used to provide certain forces that could include 2 psi to 4 psi because Perkins teaches different densities and different density would determine what psi is provides. The wedge shape is a design choice.

***Allowable Subject Matter***

Claims 8-9, 17-18, 30-31 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5, 10-13 27, 32-33, 38 and 46-59 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Brown  
February 14, 2006

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a stylized flourish at the end.

MICHAEL A. BROWN  
PRIMARY EXAMINER